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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/025,214 | 12/18/2001 | Michael John Niemeyer | KCC-15,750 | 4970 |

35844 7590 08/13/2003

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EXAMINER

COLE, ELIZABETH M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1771

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/025,214 | NIEMEYER ET AL. | |
| | Examiner | Art Unit | |
| | Elizabeth M Cole | 1771 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/18/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-6, 8, 10-11, 16, 19-21, 23, 24-25, 27, 29, 30 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Putzier, U.S. Patent No. 5,262,218. Putzier discloses an absorbent material comprising an absorbent core which may comprise pulp and superabsorbent particles, (col. 3, lines 46-58, col. 4, lines 20-44), a complete wrapper which encompasses the absorbent core which comprises a fibrous material such as a cotton-type material, (col. 4, line 65 – col. 5, line 10), and a binder material for stabilizing the wrapper, (col. 2, line 48). Figure 2 shows that the wrapper overlaps itself at the bottom portion of the absorbent article. Although Putzier does not disclose the amount of absorbency which is contributed to the absorbent material by the wrapper, it is reasonable to presume that the Putzier material would meet the limitations of the claims. Support for this presumption is found in the fact that Putzier employs the same materials and because plant-based fibers such as cotton are well known as being absorbent. In the alternative, it would have been obvious to one of ordinary skill in the art at the time the invention

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was made to have selected the thicknesses and relative proportions of the components in order to arrive at a material having the desired absorbency through the process of routine experimentation.

4. Claims 1-14, 16-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/17695 to Everett et al in view of GB 1,231,648. Everett et al discloses an absorbent material which comprises an absorbent core which may be zoned to have different levels of absorbency, and which may further comprise binders and superabsorbent materials. See page 20, lines 1-15, 26-33 and page 21. Everett et al teaches that the absorbent core may be encased in a wrapper which preferably comprises an absorbent material. See pages 23-25. Everett et al differs from the claimed invention because Everett et al does not specifically teach that the wrapper comprises a binder, and does not disclose the amount of absorbency which is contributed to the absorbent material by the wrapper. With regard to the binder, Everett et al teaches that absorbent tissue may be used as the wrapper material. GB '648 teaches that non-irritating binders may be applied to tissues which are incorporated into absorbent articles such as diapers in order to enhance the strength of the tissues. See col. 3, lines 22-42. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a binder as taught by GB '648 with the wrapper of Everett. One of ordinary skill in the art would have been motivated to employ a binder in order to enhance the strength of the tissue which is wrapped around the absorbent core of Everett et al.

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5. Claims 15, 34, 35-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Everett in view of GB 1,231,648 as applied to claims 1-14, 16-33 above, and further in view of Rosch et al, U.S. Patent No. 6,009, 558. Neither Everett nor GB'648 teach swimwear incorporating an absorbent material. Rosch teaches that swimwear may be formed so that it incorporates an absorbent core. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated an absorbent core as taught by Everett into the swimwear of Rosch. One of ordinary skill in the art would have been motivated to employ the absorbent core of Everett because it is disclosed as having excellent liquid absorbing and holding properties.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 5:00 PM Monday through Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for official faxes is (703) 872-9310. The fax number for official after final faxes is (703) 872-9311. The fax number for unofficial faxes is (703) 305-5436.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c

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